

MYTH OR TRUTH STATEMENTS & ANSWERS

Mark **T** for Truth or **M** for Myth

T

1. Both parents are required by law to support their child until the age of 18.

Truth. Child support orders are set to continue until the children turn 18 or until they graduate from high school, whichever comes later. However, if a child has a severe disability, the noncustodial parent may be required to pay child support for the rest of the child's life.

M

2. Noncustodial parents who are in the military do not have to pay child support.

Myth. Noncustodial parents (NCPs) are expected to pay child support regardless of whether they are in high school, college or the military. It also doesn't matter if they're unemployed or in jail.

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3. Noncustodial parents with one child must pay 20 percent of their net income for child support and up to 9 percent for medical support. (*That's \$220 for child support and up to \$100 for medical support if your take-home pay is \$1,100 a month*).

Truth. NCPs must pay regular child support and medical support to cover medical expenses. Someone earning minimum wage brings home about \$1,100 each month, so these numbers are pretty realistic. The amount of medical support depends on a child's medical insurance. If a child receives Medicaid, the court will still set medical support based on the NCP's income.

M

4. The only person who can open a child support case with the Attorney General's office is the parent who has physical custody of the child(ren).

Myth. Noncustodial parents, the state of Texas and, under certain circumstances, grandparents can open a child support case. The State of Texas will automatically open a child support case when the custodial parent is receiving public assistance, such as TANF or adult Medicaid.

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5. If you fall way behind in your child support payments, the state can take away your driving and fishing license.

Truth. The state has many ways to enforce the collection of child support, such as: intercepting federal income tax refunds or lottery winnings, suspending a driver's license or, in extreme cases, putting the parent in jail.

M

6. When determining the amount of back child support owed to the other parent, the court gives noncustodial parents credit for buying diapers and baby clothes and giving the other parent cash.

Myth. Diapers, other items, and even cash can be considered gifts by the court and a noncustodial parent can be ordered to pay up to four years of back support, or what is also called retroactive support, even if he or she had provided informal support.

MYTH OR TRUTH STATEMENTS & ANSWERS *Continued*

M 7. Noncustodial parents who are not paying child support are not entitled to visitation.

Myth. Legally, child support and visitation are separate issues. This means NCPs still have the right to see their child even when they aren't paying child support. Likewise, even when NCPs have not been allowed to see their child, they must continue to pay child support. Both parents must obey all court orders. Custodial parents must let NCPs spend time with their child and NCPs must pay child support every month in full. The Attorney General's office only has legal authority to enforce child support orders. If NCPs have difficulty gaining access to their child, they must ask the court to enforce the access and visitation order. The OAG does not represent either parent in custody or visitation issues.

Example: *Presume the mother has custody and the father must pay child support. If he fails to make a payment, that does not allow her to deny visitation. Or, if she denies visitation, that doesn't mean he can refuse to pay. If either parent violates the order, the court may decide what action is appropriate.*

M 8. If a man doesn't believe he's the father, it's OK for him to ignore a legal notice or summons to court stating that he's the alleged father of a certain child.

Myth. If you get a speeding ticket, you must show up in court if you think you're innocent...or you have to pay the ticket. Likewise, if you get a paternity or child support summons and a court date to discuss the case, you must show up if you want to have your say in the case. If you believe you're not the father or you don't owe child support, you'll be able to give your reasons in court. If a man does not show up for court, he waives his right to be heard and will be responsible for any child support or medical support that gets ordered. Many people think there has to be DNA testing before a man can be held legally responsible for child support, but that isn't true. If an alleged father doesn't show up in court, the judge can establish paternity and order child support without results from a DNA test.

T 9. A court cannot order a man to pay child support unless paternity has been established first.

Truth. The court cannot order a man to pay child support unless paternity has been established through one of the three pathways. *(Note: If an alleged father doesn't show up for court, the judge may rule that he's the legal father by default and he'll be responsible for child support. Refer to question #8.)*

M 10. Custodial parents can only use child support to pay for items that go directly to the child(ren) listed on the child support order.

Myth. Child support is designed so that the costs of raising a child are shared by both parents. As long as the child is being well-cared-for, it shouldn't matter how the custodial parent spends the child support money.

MYTH OR TRUTH STATEMENTS & ANSWERS *Continued*

M 11. The best time to apply for child support services is when custodial parents are fighting with noncustodial parents about their child.

Myth. While drama makes for entertaining reality TV, this is a big myth. It is actually better to apply for child support services when you're getting along with the other parent and can agree on terms of a court order – custody, visitation, child support and medical support. Even parents who are together may want to consider applying for child support services for the following reasons: to receive a DNA test before establishing paternity, to set up a formal financial arrangement for child support, and to secure each parent's rights to the child.

T 12. When the income of a noncustodial parent increases, the court can increase the child support amount. When the income decreases, the court can decrease the amount.

Truth. When the noncustodial parent has a new job and is making more money, the custodial parent may ask the court to modify the court order to receive a higher amount of monthly child support. On the other hand, if a noncustodial parent loses a job and is making less money, he or she may ask the court for a modification to pay a lesser amount of support.